

Exhibit 63 Supplement Second Nottingham Deposition

James Nottingham (Deposition 2)

Pages: 14, 20, 21, 22, 23, 24, 25, 27, 28, 36, 38, 39, 52,
53, 68, 82, 83, 88, 89

Dated: April 26, 2022

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

CHARLES JOSEPH FREITAG,	:	CIVIL ACTION - LAW
JR., as Administrator of	:	
the ESTATE OF CHARLES	:	
JOSEPH FREITAG, SR.,	:	
Plaintiff	:	
	:	
vs.	:	
	:	NO. 2:19-cv-05750-JMG
BUCKS COUNTY; PRIMECARE	:	
MEDICAL, INC.; STEPHAN	:	
BRAUTIGAM, PMHNP;	:	
JESSICA MAHONEY, PSY.D.;	:	
AVIA JAMES, LPC;	:	
CHRISTINA PENGE, LPC;	:	
CORRECTIONAL OFFICER	:	
MOODY; CORRECTIONAL	:	
OFFICER MURPHY; and	:	
CORRECTIONAL OFFICER	:	
YOUNG,	:	
Defendants	:	JUDGE JOHN M. GALLAGHER

ZOOM DEPOSITION OF JAMES H. NOTTINGHAM

DATE AND TIME: Tuesday, April 26, 2022
at 10:05 a.m.

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1 A. Never.

2 Q. Okay. I'm going to Page 68 of the
3 transcript, and you'll see there's text highlighted at
4 the bottom of Page 68 and then going onto the top of Page
5 69. Could you please read that to yourself and let me
6 know when you're finished.

7 A. (Witness reviewed document.) Okay.

8 Q. All right, sir. When I asked you this
9 question in May of 2021, I interpreted your answer to be
10 that you had never heard of any problems or issues with
11 the way Correctional Officers were supervising Inmate
12 Monitors in their work. Is that an accurate
13 interpretation of your testimony?

14 A. Yeah. I was -- I was the Training
15 mode -- Lieutenant at the time, as it clearly states
16 right there, so, no, I didn't -- I think my answer is
17 correct right there.

18 Q. Okay.

19 A. I just didn't remember you asking me
20 that, that's all.

21 Q. I see. All right. Now, the -- the
22 document, which I've actually just put in front of you on
23 the screen -- and this will be newly marked -- pardon
24 me -- as Exhibit P-35. The document which caused the
25 parties in this case to want to conduct this deposition

1 agree -- to ensure that best practices are in place at
2 each facility they are asked to examine; correct?

3 A. I think --

4 MR. KOLANSKY: Object.

5 THE WITNESS: I think that's what I
6 said, but you put it through purposely -- I mean, more
7 professionally than I did.

8 BY MR. FEINBERG:

9 Q. Okay. Well, thank you, sir, for the
10 compliment. In -- can I -- can we assume that Bucks
11 County -- we can take this down since we're not talking
12 specifically about the document now. Can we assume that
13 Bucks County likes to have or wants to have best
14 practices in place to preserve the health and safety of
15 inmates in its custody?

16 A. Absolutely.

17 Q. So the purpose of going through this
18 accreditation process is to ensure that Bucks County's
19 practices are up to standard in order to meet that goal;
20 correct?

21 A. Yes.

22 Q. Did Bucks County want to have
23 accreditation by NCCHC?

24 A. Absolutely, yes.

25 Q. So when NCCHC pulled Bucks County, in

1 this document that we were reviewing just a moment ago,
2 that a standard was not met, did Bucks County try to do
3 something to meet that standard?

4 A. Yes.

5 Q. Okay. And we'll come back to that. You
6 mentioned, when I asked you specifically about Bucks
7 County's supervision -- or pardon me -- about the
8 supervision of Inmate Monitors, you said NCC- -- NCCHC
9 was not happy with it. What did you mean by that?

10 A. In their -- in their -- in their report
11 right there it says that we -- we weren't consistent, so
12 that's what I mean by that. We didn't meet their
13 standards.

14 Q. Okay. Don't Bucks County Correctional
15 Officers have a responsibility to consistently observe
16 inmate workers doing their jobs?

17 A. Yes.

18 Q. So would you agree that NCHC [sic] --
19 NCCHC found that Bucks County was not living up to that
20 responsibility?

21 MR. KOLANSKY: Objection, form of the
22 question.

23 You can answer.

24 THE WITNESS: So we were not fulfilling
25 their standards, in their opinion, according to that

1 report. Our standards that we had at that time, we were
2 fulfilling. We just didn't meet their -- their
3 standards.

4 BY MR. FEINBERG:

5 Q. Were the standards that you had in place
6 at that time appropriate?

7 A. Yes.

8 Q. Were the standards that you had --

9 MR. KOLANSKY: I'll note for the record
10 that that was 2017, sometime before your client passed;
11 is that right?

12 BY MR. FEINBERG:

13 Q. Were the standards that were in place at
14 that time sufficient to protect inmate welfare?

15 A. Yes, they were.

16 Q. So is it your testimony, sir, that the
17 procedures that were in place, where officers were not
18 consistently observing the inmates while they were
19 performing their watches, appropriate?

20 A. I believe they were at the time, and the
21 changes we made, made it better.

22 Q. Okay. So is it fair to say, sir, that
23 once NCHC [sic] provided you with this accreditation
24 report, Bucks County was aware that there were issues in
25 officers' compliance with their responsibilities?

1 MR. KOLANSKY: Objection, form of the
2 question, and that's not what he said.

3 But go ahead, you can answer.

4 MR. FEINBERG: Jeff, the purpose of a
5 deposition is to ask the witness if I'm right or wrong
6 in characterizing something. That's --

7 MR. KOLANSKY: That's fine.

8 MR. FEINBERG: -- my question.

9 MR. KOLANSKY: That's fine, but when it
10 appears to be one question later -- and I don't think
11 Captain Nottingham will be fooled -- but when it appears
12 to be an effort to twist testimony, I'm going to object.

13 MR. FEINBERG: All right. Well, now
14 that you've instructed the witness that I'm trying to
15 fool him, we'll see what his testimony is.

16 Go ahead, Captain.

17 MR. KOLANSKY: Well, I instructed him
18 that before we started, but that's okay. Go ahead.

19 I'm just kidding. Go ahead.

20 THE WITNESS: Sir, could you repeat the
21 question, please?

22 MR. FEINBERG: Yeah. Lori, would you
23 please read back the last question.

24 (Whereupon, the Reporter read back the
25 referred-to question.)

1 THE WITNESS: So we weren't aware until
2 they made that -- that report. They made us aware of
3 that.

4 BY MR. FEINBERG:

5 Q. Okay. Thank you. And that's exactly my
6 question. Once this report was provided to Bucks County,
7 then Bucks County knew, okay, we've got an issue with
8 officers doing what they're supposed to do regarding
9 supervision of Inmate Monitors; correct?

10 MR. KOLANSKY: Objection, form of the
11 question.

12 You may answer. You can answer.

13 BY MR. FEINBERG:

14 Q. You can answer, sir.

15 A. Again, the procedures we had in place at
16 the time were adequate to our standards, what we
17 believed, the officers who were supervising the inmates,
18 and the watch standards were adequate.

19 Once we got that report from them, we
20 took their advice and we made some -- we implemented
21 some changes.

22 Q. They gave you that advice for good
23 reasons; right?

24 A. I would say so, yeah.

25 Q. They wanted to -- they wanted to provide

1 you with guidance about how you could improve practices
2 at Bucks County to protect the safety of inmates in your
3 custody; right?

4 A. I'll agree with that.

5 Q. And once they gave you that guidance, you
6 said -- when I say you, Bucks County collectively said --
7 we ought to do this because these people know what
8 they're talking about; right?

9 A. I agree.

10 Q. All right. So getting back on the topic
11 that led us down this line of questions concerning the
12 NCCHC report -- I'm sorry. Let me ask it this way.

13 When you gave your testimony back in May
14 of 2021 about -- and I guess I'll put the transcript
15 back up in front of you -- where I asked you about any
16 problems in the way officers were conducting themselves
17 in their supervision of Inmate Monitors, and your answer
18 was, no, sir, were you aware at that time of the NCCHC
19 report that we've just been reviewing?

20 A. No, I wasn't aware of it at the time.

21 Q. If you had been aware of the report at
22 that time, would your answer to my question have been
23 different?

24 A. If I was made aware of that, I would
25 have -- I would have been asking a lot of questions

1 officer.

2 Q. And, sir -- and maybe the question is
3 difficult because I'm asking in a -- as a hypothetical,
4 and I acknowledge that.

5 What I'm asking you is that if someone
6 handed you this document, Exhibit 35, at some point in
7 2016 or 2017, and then I asked you the questions that I
8 asked you, your answer, I assume, would have been, oh,
9 yeah, I heard about what NCCHC found, and they told us
10 we ought to change our practices; right?

11 A. Let me put it to you this way. If
12 somebody handed me that document right there that's on
13 the screen and I read that, I would be asking questions
14 after that. Like I said, I'd be like, are we changing
15 anything? What are we doing to adhere to this
16 recommendation? That would be my question.

17 Q. Okay. And then when I asked you that
18 question in May of 2021, you would have had a different
19 base of knowledge if you had these documents; is that
20 correct?

21 A. Yes. I would've -- I would've -- you
22 know, I would've been handed something that said that
23 there's a fault somewhere --

24 Q. Okay.

25 A. -- here's a recommendation.

1 Q. And so when I asked you those questions
2 in May of 2021, you did not know about this reporting
3 about a fault, to use your words, regarding procedures at
4 Bucks County, but now you are aware, having reviewed
5 these documents; is that correct?

6 A. That's correct.

7 MR. KOLANSKY: Objection.

8 BY MR. FEINBERG:

9 Q. Have you done anything else besides
10 review documents from NCCHC in order to prepare for
11 testimony on these topics?

12 A. No.

13 Q. Have you spoken to anybody else within
14 the County, whether it's the Warden or the -- and I'm
15 sorry. I'm forgetting the title of the highest ranking
16 officer at the County.

17 Really, my question is, have you spoken
18 to any of the supervisory staff about these NCCHC
19 documents to prepare for this deposition?

20 A. No, no one.

21 Q. Based on the review of the documents that
22 you have conducted so far, are you prepared to testify
23 today about the various things that happened throughout
24 the history of NCCHC's work on these topics?

25 A. To the best of my ability, yes.

1 BY MR. FEINBERG:

2 Q. You can answer.

3 A. I don't -- I don't agree with the word
4 failure, your words. I would say --

5 Q. I'll phrase it -- I can phrase it
6 differently.

7 Would you agree, sir, that -- that Bucks
8 County needed to make changes in the way it was
9 conducting procedures in order to ensure the protection
10 of people in its custody?

11 A. I believe that the recommendations made
12 by NCCHC provided us insight into making our watch
13 procedures better and keeping the inmates safer.

14 Q. And so maybe we're saying the same thing
15 but using different words. In summary, sir, that Bucks
16 County wanted to make changes in order to ensure the
17 safety of the prison population?

18 A. I'll agree with that.

19 Q. What remedies which -- I won't use the
20 word remedy. What changes did Bucks County make
21 following receipt of the reports from NCCHC?

22 A. We added another -- we added another
23 form where the officer actually does an observation. It
24 was called the officers observation watch.

25 (Court Reporter clarification.)

1 Would you repeat the question?

2 Q. What documents do you have in front of
3 you?

4 A. I have the report from NCCHC. I have
5 Captain Landis's Incident Report, and I have the Suicide
6 Prevention Program policy in front of me.

7 Q. All right. Thank you. Sir, before we
8 change topics -- we changed topics. We were talking
9 about what actions Bucks County took following receipt of
10 information from NCCHC. You've identified the creation
11 of a form. What else happened?

12 A. Well, we made those changes and made the
13 officers aware in, in-service training. In our lineup
14 roll call, repeatedly the changes were given to staff.

15 Now, when you asked me that type of
16 question like that, do you mean up till right now, to
17 this date what changes, or just specifically to that
18 report?

19 Q. Let's have -- well, let's confine it to
20 between the issuance of that report in 2016 and 2017
21 through August of 2018.

22 A. So everything I just stated right there
23 then. That's -- that's about accurate for the -- that
24 time frame.

25 Q. All right. So there are, to make sure

1 I've got it, the creation of a new form and an in-service
2 training, also informing officers at lineup and roll
3 call; is that correct?

4 A. Yes.

5 Q. Was there anything else that the County
6 did to -- in response to the NCCHC reporting between 2016
7 and August of 2018?

8 MR. KOLANSKY: That he recalls at this
9 time?

10 MR. FEINBERG: Obviously.

11 MR. KOLANSKY: Okay.

12 THE WITNESS: I -- I thought I just
13 answered that. I didn't -- did you add something into a
14 different question?

15 BY MR. FEINBERG:

16 Q. No. I was confirming, sir, that we've --
17 we've exhausted your recollection as to what happened.

18 A. Yes. Between that time frame, at this
19 time that's all I can remember.

20 Q. All right. Can you remember anything
21 else that's happened after August of 2018?

22 A. Till this -- till today, till present
23 today --

24 Q. Correct.

25 A. -- 2022? Yes --

1 or an interplay between the County and PrimeCare's
2 policies for addressing accreditation issues?

3 A. Not all the time. I mean, I believe
4 that PrimeCare has their standards. Sometimes we are on
5 the same page and sometimes we're not.

6 Q. When it comes to something like suicide
7 prevention, are you on the same page?

8 A. Yes.

9 Q. That's absolutely critical for what the
10 County does and what PrimeCare does; correct?

11 A. Oh, it's critical. It's critical that
12 we work in conjunction with one another.

13 Q. Sure. So when you're told -- when I say
14 you, meaning the County, you're told by NCCHC that your
15 standards are -- could be improved, it doesn't matter
16 whether it's you or PrimeCare; that's something that the
17 County would take very seriously; right?

18 A. Oh, we would definitely take into
19 consideration. And that's the whole point of this
20 conversation. I think I agreed with that.

21 Q. Yep, sure. And once the County -- or
22 pardon me -- what I'm trying to get at is that the County
23 had to make two different sets of improvements in order
24 to get the accreditation. Would you agree to that, sir?

25 MR. KOLANSKY: Objection again.

1 THE WITNESS: I would.

2 BY MR. FEINBERG:

3 Q. Okay. One set of improvements was in
4 2017 -- or pardon me. One set of improvements was in
5 2016. The other set was in 2017. Is that correct?

6 A. So the one in -- the one in '16 we made
7 the adjustment, we got the accreditation. Then they
8 recommended another one a year later, in March of '17 --

9 Q. Well, let's --

10 A. -- we got the accreditation.

11 (Court Reporter clarification.)

12 We got the accreditation. So I'll agree
13 with that.

14 Q. Now, the date on the accreditation in
15 Exhibit 35 is May of 2017. Do you see that, sir?

16 A. Yep.

17 Q. To your knowledge, was there any
18 accreditation prior to May of 2017?

19 A. No. I'm only going off the documents I
20 have in front of me here.

21 Q. Okay.

22 A. When I see congratulations, I think we
23 got the accreditation.

24 Q. Okay. And that's in May of 2017 as we
25 know from the date of the letter; correct?

1 doesn't matter.

2 Q. So would you agree that the
3 responsibility to supervise an Inmate Monitor is far
4 different from the responsibility to serve an inmate who
5 was just housed on the -- housed on the block?

6 A. It's -- it's still supervision, but
7 there's different responsibilities.

8 Q. Sure. The Inmate Monitor has a job to do
9 to protect the safety of people in the -- in the unit;
10 correct?

11 A. Has a -- has a job to do and to provide
12 safety for the individual that they're watching, yes.

13 Q. So when the officer supervises the Inmate
14 Monitor, there's that added responsibility; correct?

15 A. To the officer. Absolutely, I'll agree
16 with that.

17 Q. All right. And my --my question to you
18 is, have you ever seen any document -- other than
19 Exhibit 7, which was Standard Operating Procedure 4.60,
20 have you seen any other document which discusses, in
21 terms of training or guidance or anything like that,
22 officers' responsibilities to supervise Inmate Monitors?

23 A. I don't -- I don't recall anything
24 written down, but I -- like I said, it's like -- it's
25 like an unwritten rule. We -- we supervise monitors.

1 Can you read the highlighted text to
2 yourself. We're on Page 50, from lines 4 through 13,
3 and let me know when you're finished.

4 A. (Witness reviewed document.) I'm
5 finished.

6 Q. All right. So, sir -- and for context,
7 this portion of Mr. Young's testimony concerned questions
8 on the very same topics that I've been asking you about,
9 about responsibility to supervise Inmate Monitors. Would
10 you agree that in Mr. Young's view, he says it's not
11 mandatory for officers to review Inmate Monitor forms as
12 part of his supervision of the Inmate Monitor?

13 MR. KOLANSKY: Objection to the form of
14 the question. You can answer it.

15 THE WITNESS: I can't speak for Officer
16 Young, but I believe that, according to his statement
17 here, that he was inaccurate on his statement.

18 BY MR. FEINBERG:

19 Q. Do you have any idea how Officer --
20 strike that. So when you say he's inaccurate, he's
21 interpreting his responsibilities incorrectly; is that
22 right?

23 A. Yes.

24 Q. Do you have any understanding as to why
25 Officer Young would tell me in December of 2020 this

1 testimony or give me this testimony in December of 2020,
2 having received the training that you've described
3 previously?

4 MR. KOLANSKY: Objection to the form of
5 the question. Go ahead.

6 THE WITNESS: So I believe the only way
7 he would give that kind of answer is that you might have
8 made him nervous or maybe he didn't hear the question.
9 I --

10 BY MR. FEINBERG:

11 Q. Well --

12 A. Can I say one thing? So I'm at 10
13 percent on my tablet here. I'm about ready to move so I
14 can plug it in, so can you give me like 10 seconds?

15 Q. Sure.

16 (Short pause.)

17 A. All right. Thank you.

18 Q. Sir, you've -- you've -- you've suggested
19 that perhaps Mr. Young was nervous when he was talking to
20 me or just mistaken.

21 I asked you at the beginning of today's
22 deposition whether you recalled going through, in May of
23 2021 with me, a number of different statements that
24 Mr. Young made in his deposition.

25 Let me kind of reframe the question now.

1 conversation.

2 Q. All right. Let me show you one other
3 portion of your testimony, sir. It's at Page -- first --
4 yeah, while -- while we go by it -- at Page 118, would
5 you read the highlighted text there from your testimony.

6 A. (Witness reviewed document.) Finished.

7 Q. All right. So, sir, you told me in May
8 of 2021 that if you had spoken to Mr. Young you would've
9 disciplined him. I take it your conclusion is the same
10 today?

11 A. Yes.

12 Q. The final portion I wanted to ask you
13 about in your deposition transcript, sir, is I asked you
14 this series of questions on --

15 MR. KOLANSKY: Page?

16 BY MR. FEINBERG:

17 Q. -- Page 121. Could you read that portion
18 of the transcript to yourself, and let me know when
19 you're finished.

20 A. (Witness reviewed document.) I'm done.

21 Q. So, sir, obviously you told me that --
22 that you thought that you might speak to Officer Young
23 and Officer Moody about their actions on the cell block
24 where Mr. Freitag killed himself on August 25th of 2018.
25 Did you ever do that?

1 MR. KOLANSKY: Objection. This is,
2 again, outside the scope of this deposition, and it is
3 inappropriate to go into this now. You keep -- you
4 don't get a second bite at the apple, Jon.

5 BY MR. FEINBERG:

6 Q. You can answer, sir.

7 A. So to answer your question, no, I never
8 spoke to him.

9 Q. Why not?

10 MR. KOLANSKY: Objection.

11 BY MR. FEINBERG:

12 Q. You can answer.

13 A. So when I finished the -- the deposition
14 back then, I -- I thought about it. I did think about
15 it, and I said to myself, I don't want to jeopardize the
16 case.

17 So I know I swore an oath and I -- I
18 swear to tell the truth, but I also believed in these
19 depositions -- I think they're to be kept private, also,
20 and there shouldn't be any -- disseminating any
21 information forward until everything is resolved.

22 So at that point there was nothing
23 resolved. I was speaking as a -- on my -- on my
24 emotions at the time, so that's why I never followed up.
25 I kinda had a calmer perspective afterwards.